

REMARKS/ARGUMENTS

Objections are made to claims 6 and 9 as being incomplete. Claim 6 has accordingly been amended and claim 9 has been entered after being inadvertently left out.

Claims 6-10 are rejected under the judicially created doctrine of obviousness type double patenting over claim 4 of U.S. Patent No. 6,564,795 in view of Dempsey. A Terminal Disclaimer is being submitted herewith in respect to that patent. Such a rejection is therefore respectfully overcome.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aid in view of Dempsey. Claim 6 has been amended to more clearly recite features that distinguish over those references. The applicants believe that the claims as amended are patentably distinctive over those references for the reasons to be discussed hereinbelow.

Each of the Aid and Dempsey references have been previously discussed by the applicants. The Examiner's remarks concerning the Aid reference showing the device to be composed of two sheets of plastic secured together are understood and well taken.

To consider further features of the Aid reference, as will be seen in Fig. 12, the pockets 106 and 107 are located at the two ends of the plastic container, in parallel relationship with the plurality of longitudinally extending passages that are disposed between the two pockets 106 and 107. Such a design allows the container to be suspended in its entirety between a pair of frame element arms that extend into the pockets 106 and 107, such that the entire container can be placed in tension between the arms of the frame element.

This is substantially different from the applicant's invention wherein it is desired to support the heat exchanger not on the sides that are parallel to the passageways but on an end surface which is aligned normally to the longitudinally extending passageways. In this regard, there is nothing in the Aid reference that would suggest that the pockets 106 and 107 be placed in those portions of the container that form the edge which is between the passageways or at the ends thereof. This, in fact, would be contrary to the purpose of the pockets which allow for the frame arms to stretch out the container from one end to the other.

Referring now to the claims, claim 6 as amended recites that the fastener receiving means is disposed in a land portion that is partially disposed between the longitudinally extending passageways and partially disposed at the longitudinal ends thereof.

For the reasons discussed hereinabove this is substantially different from either of the cited references taken individually or in combination.

Serial No.: 10/038,438
Amendment Dated: April 15, 2004
Reply to Office Action of February 25, 2004

In respect to claim 9, the Examiner is correct that Dempsey discloses that a heat exchanger can be formed from a single folded sheet. However, that reference does not teach or suggest that a fastener receiving means be formed with its opening in that edge. Similarly, the Aid reference would not show or suggest such a feature. The applicants believe that without such a teaching or suggestion from either of the cited reference, it is only with hindsight that such a feature might appear to be obvious to one skilled in the art.

For the above reasons, the applicants believe the claims, as amended, are patentably distinctive over the cited references. A reconsideration of the Examiner's rejection and a passing of the case to issue is therefore respectfully requested.

If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicant's representative at the telephone number below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP

By: 
Dana F. Bigelow
Reg. No. 26,441

DFB/cmh
Telephone: (315) 425-9000

Customer No.: 20874